

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ORDER

Pending before the Court is Defendants' Motion to Dismiss (Doc. No. 13, "Motion"), and a Memorandum in Support of the Motion (Doc. No. 14). Plaintiff in this case is proceeding pro se, and the Motion seeks dismissal of her claims based on insufficiency of service of process as to both Defendants (Steward Medical Group and Amy Strauss), failure to state a claim against Defendant Strauss, and Plaintiff and Defendant Steward Medical Group having entered into a binding arbitration agreement. (*Id.* at 1-2).

Initially, on October 21, 2021, Plaintiff filed a response opposing the Motion. (Doc. No. 17). However, on November 4, 2021, Plaintiff filed an amended response whereby she appears to have revoked her opposition. (Doc. No. 19, “Amended Response”). The Amended Response states that Plaintiff agrees that Defendant Strauss should be dismissed “from this case with prejudice,” and that “a binding arbitration must take place” between herself and Defendant Steward Medical Group.

Accordingly, the Court will grant Defendants' Motion in part and deny it in part. Specifically, Defendants' Motion is **DENIED as moot** insofar as it seeks dismissal under Fed. R.

Civ. P. Rule 12(b)(5) for insufficiency of service of process. Defendants' Motion is **GRANTED as unopposed** insofar as it seeks dismissal of Defendant Strauss under Rule 12(b)(6) for failure to state a claim. Defendant Strauss is thereby **DISMISSED with prejudice**.

Additionally, the Motion is **GRANTED as unopposed** insofar as it seeks dismissal of Plaintiff's claims against Defendant Steward Medical Group in light of the binding arbitration agreement. Those claims are **DISMISSED without prejudice** so that they can proceed in arbitration.

This is the final order in this case for purposes of Federal Rule of Civil Procedure 58.

IT IS SO ORDERED

Eli Richardson
ELI RICHARDSON
UNITED STATES DISTRICT JUDGE